

**ORIGINAL**

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Price Cap Performance Review )  
for Local Exchange Carriers; )  
Treatment of Video Dialtone )  
Services Under Price Cap )  
Regulation )

CC Docket No. 94-1

NOV 20 1995

AT&T REPLY COMMENTS

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, AT&T Corp. ("AT&T") submits these reply comments on the Commission's Third Further Notice of Proposed Rulemaking ("TFNPRM").<sup>1</sup> The TFNPRM seeks comments on two issues related to the establishment of price cap rules for video dialtone ("VDT") service. Specifically, the Commission seeks input (paras. 39-41) on (1) the proper level of the de minimis threshold above which local exchange carriers ("LECs") are required to segregate VDT costs and revenues from those for telephony services for purposes of sharing and the low-end adjustment and (2) procedures to be implemented to allocate VDT costs to the VDT basket once the threshold is exceeded. After considering the comments filed in this

<sup>1</sup> Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Second Report and Order and Third Further Notice of Proposed Rulemaking, FCC 95-394, released September 21, 1995 ("Price Cap Performance Review Order" or "TFNPRM").

proceeding,<sup>2</sup> AT&T believes that the most reasonable approach remains the one suggested by AT&T in its comments -- to set the de minimis threshold at the amount of dedicated and shared video dialtone investment that would reduce the LEC overall rate of return by five basis points, or \$100,000, whichever is the greater reduction in sharing obligation, and to require full Part 36 and Part 69 cost studies for allocating VDT costs to the VDT basket once the threshold has been exceeded.

The TFNPRM elicited a wide variety of comments in response to the question of the proper threshold level. These comments ranged from proposals to eliminate the de minimis threshold entirely<sup>3</sup> to establishing thresholds that are not based on a rate of return calculation.<sup>4</sup> Notwithstanding the numerous and varied proposals put forth by the commenters, the Commission should remain focused on its underlying goal that telephone ratepayers

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<sup>2</sup> Comments were filed by AT&T, Bell Atlantic Telephone Companies ("Bell Atlantic"), BellSouth Telecommunications, Inc. (BellSouth), California Cable Television Association ("CCTA"), Comcast Cable Communications, Inc. and Cox Enterprises, Inc. ("Comcast"), General Services Administration ("GSA"), GTE Service Corporation ("GTE"), MCI Telecommunications Corp. ("MCI"), National Cable Television Association, Inc. ("NCTA"), NYNEX Telephone Companies ("NYNEX"), Pacific Bell, Southern New England Telephone Company ("SNET"), Southwestern Bell Telephone Company ("SWBT"), and U S WEST Communications, Inc. ("U S WEST").

<sup>3</sup> CCTA, pp. 6-7.

<sup>4</sup> GTE, pp. 2-3.

not subsidize new video dialtone services.<sup>5</sup> To the extent the Commission has determined to permit a certain level of cross-subsidization, that level should be no higher than necessary to prevent imposing an unnecessary administrative burden on LECs for excluding VDT costs and revenues from the LEC's interstate rate of return.<sup>6</sup>

Several commenters argue that there should be no de minimis threshold under the current circumstances.<sup>7</sup> However, this issue is properly the subject of petitions for reconsideration of the Price Cap Performance Review Order filed by MCI and Cox Enterprises.<sup>8</sup> The Commission in this proceeding seeks comment only on what is the

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<sup>5</sup> See Price Cap Performance Review Order, in which the Commission: (1) established a separate price cap basket for video dialtone service; (2) assigned a zero "productivity" or X-Factor to video dialtone services in the basket; (3) set the initial price cap indices for the video dialtone basket to reflect the VDT rates in effect when the service is brought under price cap regulation; (4) declined to establish service subcategories for the price cap basket; and (5) required LECs to segregate video dialtone costs and revenues from those for telephony service for purposes of sharing and the low-end adjustment once LEC provision of video dialtone exceeds a de minimis threshold.

<sup>6</sup> Id. at para. 35.

<sup>7</sup> CCTA, pp. 6-9; Comcast, p. 2; MCI, pp. 3-6; and NCTA, pp. 6-7.

<sup>8</sup> Price Cap Performance Review for Local Exchange Carriers, Petition for Reconsideration, CC Docket No. 94-1, filed by MCI November 6, 1995 and Price Cap Performance Review for Local Exchange Carriers, Petition for Reconsideration, CC Docket No. 94-1, filed by Cox Enterprises, Inc. November 6, 1995.

appropriate threshold. In any event, establishing a zero threshold would only be appropriate after full cost allocation studies are performed which, as discussed below, have not been required by the Commission to date for video dialtone.<sup>9</sup> Assuming that the requirement of a de minimis threshold remains under the Commission's rulings, AT&T's proposal, as described fully in its comments, strikes the most appropriate balance between the Commission's legitimate concerns.

The comments also confirm that the calculation of the de minimis threshold should not be based only on dedicated VDT costs, but rather on both dedicated and shared VDT costs. The majority of non-LEC commenters agree that all VDT costs, both direct and shared, must be included in the VDT category for determining the threshold.<sup>10</sup> These costs can be tracked through the ARMIS reports recently required by the Commission.<sup>11</sup> As GSA

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<sup>9</sup> On the other hand, other commenters' proposals allow too high a cross-subsidization, by not including the proper costs in the VDT calculation. See, e.g., Bell Atlantic, p. 2 (incorrectly claiming that existing Part 36 rules allow for appropriate allocation) and SWBT, p. 11 (incorrectly claiming that current Part 36 rules will identify the appropriate allocation).

<sup>10</sup> CCTA, p. 3; Comcast, p. 2; GSA, p. 3; MCI, pp. 7-8; and NCTA, p. 2. Even NYNEX (p. 4) acknowledges that "[t]he appropriate cost amounts to exclude from the sharing/low end adjustment mechanisms are all direct costs wholly dedicated to VDT plus the VDT portion of shared investment."

<sup>11</sup> The LECs have been required to file annual reports that, among other things, contain wholly dedicated and

(p. 5) notes, "most video dialtone systems require very little dedicated investment and a great deal of shared investment."<sup>12</sup> If shared investment is excluded from the VDT threshold tracking requirement, a major cost component of video dialtone would be absent from the cost calculation and would improperly be included in the LECs' telephony rate base. Moreover, if only dedicated VDT costs are used to calculate the de minimis threshold, LECs are improperly encouraged to treat network costs as shared.<sup>13</sup> The comments thus reiterate the Commission's long-standing policy that costs should be directly allocated or assigned wherever possible in order to ensure that cost-causers properly bear their related expenses,<sup>14</sup>

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(footnote continued from previous page)

shared VDT costs captured in subsidiary accounting records. Reporting Requirements on Video Dialtone Costs and Jurisdictional Separations for Local Exchange Carriers Offering Video Dialtone Services, Memorandum Opinion and Order, DA 95-2026, AAD No. 95-59, released September 29, 1995 (para. 1). FCC Reports 43-09A and 43-09B track the necessary information.

<sup>12</sup> For example, GSA explains (p. 5, n.12) that less than 10 percent of Bell Atlantic's investment in its Dover, New Jersey system is dedicated video plant. Dedicated broadcast investment per subscriber is \$74.54, while shared broadcast investment per subscriber is \$1,668.51. Bell Atlantic Tariff F.C.C. No. 10, filed January 27, 1995, Description and Justification, Workpaper 5-3, Column A and Workpaper 5-3, Column B plus Workpaper 5-4, Columns A, B, and C, respectively.

<sup>13</sup> See CCTA, p. 9.

<sup>14</sup> See, e.g., MTS and WATS Market Structure, Third Report and Order, 93 F.C.C.2d 241 (1983) (costs should be assigned to the cost causer).


and confirm that, in the instant case, it is appropriate to require that shared costs be included in the calculation of the threshold.

Several commenters argue that the de minimis threshold should not be based on a rate of return type measure.<sup>15</sup> This argument is incorrect. The sharing obligation itself is based on the rate of return earned by the LEC, and the purpose of the de minimis threshold is to ensure that sharing is appropriately implemented once that rate of return calculation is made.<sup>16</sup> It simply makes no sense to calculate the threshold using a measure that is different from the measure used to determine the sharing obligation. Consequently, the Commission should reject those proposals that do not set the de minimis threshold on a rate of return type measure; any other calculation

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<sup>15</sup> See BellSouth, p. 3 (proposes defining de minimis as VDT investment that is no more than five percent of unseparated gross plant); GTE, p. 2; Pacific Bell, p. 2 (LEC's interstate dedicated VDT plant in service investment is less than one percent of LEC's total interstate investment that the VDT investment should be considered de minimis); SNET, p. 5 (ratio of direct VDT assets deployed to total assets deployed); and SWBT, p. 10 (based on households passed by VDT facilities).

<sup>16</sup> Depending on the X-factor chosen, a price cap LEC is required to share with its customers a portion of its interstate earnings if the rate of return exceeds a specified level. For example, a LEC selecting a 4.0 X-factor is required to share 50% of its interstate earnings if the rate of return is between 12.25% and 13.25%. If the rate of return exceeds 13.25%, then the



would correlate less closely to the sharing obligation itself.

Finally, the comments do not support the use of a fixed allocation factor or the new services test to allocate VDT costs to the VDT basket for sharing once the threshold has been reached.<sup>17</sup> Instead, the majority of commenters correctly point out that those methods do not properly allocate VDT costs to the VDT category in Part 69. Specifically, the use of fixed allocators do not provide accurate allocations, because they are not based on actual usage. Likewise, the new services test is inappropriate, because it relies on demand and usage estimates for tariff pricing purposes, which are inappropriate for allocation purposes. AT&T's recommendation that the Commission require LECs to perform full Part 36 and Part 69 cost studies (fully distributed costing) for video dialtone costs after the de minimis threshold is exceeded is the most practical because this approach is based on actual usage and costs.

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<sup>17</sup> Bell Atlantic, p. 4 (do not use fixed allocator); Comcast, pp. 3-6 (neither method addresses how to allocate before jurisdictional separation); GSA, pp. 6-7; GTE, p. 3 (do not use fixed allocator); MCI, p. 6 (use fully distributed costing principles); NCTA, p. 5 (new services test does not require fully distributed costing); Pacific Bell, p. 5 (no fixed allocator); and SWBT, p. 11 (no fixed allocator or new services test).

By employing fully distributed costing principles currently used in both Part 36 and Part 69, the Commission will ensure that costs are assigned to the appropriate categories and thereby minimize cross subsidization. In addition, use of fully distributed costing will create economies of scale to the benefit of ratepayers of regulated services by allowing the LECs to share operations and facilities between telephony and video dialtone services.

However, it would be premature to apply any methodology to Part 69 for allocating video dialtone costs until Part 36 is modified to reflect video dialtone costs and usage. Absent an appropriate Part 36 allocation between the state and interstate jurisdictions, video dialtone costs will not properly flow to Part 69. Therefore, VDT costs should be allocated to the video dialtone basket, after the de minimis threshold is exceeded, only upon the completion of full Part 36 and Part 69 cost studies.

#### CONCLUSION

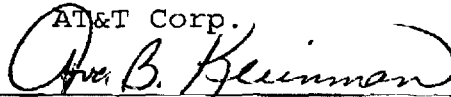
For the reasons stated above and in AT&T's comments, the Commission should adopt a balanced approach by setting the de minimis threshold at the amount of dedicated and shared VDT investment that would reduce the LEC overall rate of return by five basis points, or \$100,000, whichever results in the greater reduction in sharing obligation. The Commission should require full



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Part 36 and Part 69 cost studies for allocating VDT costs to the VDT basket for purposes of sharing and the low-end adjustment once the threshold has been passed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, do hereby certify that on this 20th day of November, 1995, a copy of the foregoing "AT&T Reply Comments" was mailed by U.S. first class mail, postage prepaid, to the parties listed on the attached Service List.

  
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